PATENT COOPERATION TREATY

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From the INTERNATIONAL SEARCHING	G AUTHORITY			DEGID O 2 AAAM GOOD
To: GREGORY P. EINHORN MORRISON & FOERSTER LLP 3811 VALLEY CENTRE DRIVE, SUITE 500			PCT WIFO 0 2 MAY 2006 WIFO PCT	
SAN DIEGO, CA 92130-2332			INTERNATIO	ONAL SEARCHING AUTHORITY
				(PCT Rule 43bis.1)
			Date of mailing (day/month/year)	28 APR 2006
Applicant's or agent's file refere	ence		FOR FURTHER	ACTION See paragraph 2 below
595142000140				
International application No.	Internat	tional filing date	(day/month/year)	Priority date (day/month/year)
PCT/US05/08839	17 Marc	ch 2005 (17.03.2	005)	17 March 2004 (17.03.2004)
International Patent Classification	on (IPC) or both na	itional classificat	ion and IPC	
IPC(7): A61K 36/87 and US Cl. Applicant	: 424/766			
	•			
TAKEMOTO, ARNOLD C		· · · · · · · · · · · · · · · · · · ·		
1. This opinion contains indica	ations relating to th	ne following item		
Box No. I Basis of the opinion				
Box No. II Pr	iority			
Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability			ntive step and industrial applicability	
Box No. IV Lack of unity of invention				
Box No. V Re	easoned statement oplicability; citation	under Rule 43 <i>bis</i> ns and explanatio	.l(a)(i) with regard to ns supporting such st	o novelty, inventive step or industrial atement
Box No. VI Co	ertain documents c	ited		
Box No. VII Co	ertain defects in the	e international ap	plication	
Box No. VIII Ce	ertain observations	on the internation	nal application	
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International Preliminary	Examining Authorine to be the IPEA	rity ("IPEA") e and the chosen	xcept that this does IPEA has notified the	be considered to be a written opinion of the not apply where the applicant chooses an ale International Bureau under Rule 66.1bis(b) ered.
If this opinion is, as provious IPEA a written reply togeth of Form PCT/ISA/220 or be	her, where appropr	riate, with amend	lments, before the ex	PEA, the applicant is invited to submit to the piration of 3 months from the date of mailing whichever expires later.
For further options, see For	m PCT/ISA/220.			
3. For further details, see note	s to Form PCT/IS/	A/220.		
Name and mailing addrage after	a ISA/IIS	Data of comple	etion of this opinion	Authorized officer a / 2
Name and mailing address of th Mail Stop PCT, Attn: ISA Commissioner for Patent P.O. Box 1450	A/US is	Date of comple	stion of this opinion	Shall Sill Jill
Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201				Telephone No. (571) 272-1600

Form PCT/ISA/237 (cover sheet) (April 2005)

International application No.
PCT/US05/08839

Box No	o. I Basis of this opinion		
	regard to the language, this opinion has been established on the basis of:		
\boxtimes	the international application in the language in which it was filed		
	a translation of the international application into, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).		
2. With r invent	regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed ion, this opinion has been established on the basis of:		
a.	type of material		
	a sequence listing		
	table(s) related to the sequence listing		
b. ,	format of material		
	on paper		
	in electronic form		
c.	time of filing/furnishing		
	contained in the international application as filed.		
	filed together with the international application in electronic form.		
	furnished subsequently to this Authority for the purposes of search.		
	In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.		
	onal comments:		
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Form PCT/ISA/237(Box No. I) (April 2005)

International application No. PCT/US05/08839

IN I DIG WITTOWN D OBMITTON		
Box No. V Reasoned statement under Rule applicability; citations and expla	43 bis.1(a)(i) with regard to novelty, nations supporting such statement	inventive step or industrial
1. Statement		
Novelty (N)	Claims 2-57	YES
,	Claims 1,58 and 59	NO
		YES
Inventive step (IS)	Claims 21,22 and 32	
	Claims 1-20,23-31 and 33-59	NO
Industrial applicability (IA)	Claims 1-59	YES
madama approximity (111)	Claims NONE	
Citations and explanations: Claims 1, 58, and 59 lack novelty under PCT Article compositions that contain alpha-lipoic acid, tocophe 4 and Examples).	e 33(2) as being anticipated by US Pat. No. rols, derivatives of vitamin A, EDTA, and	6,432,453. US '453 teaches medium chain triglycerides (see column
lecithin (see top of column 9 and claims). US '253 teaches an antioxidant composition glucarate, and grape seed extract (see page 5, first of sources of plant indoles. In addition, applicant's specified three references show that it was well known that it is antioxidant compositions. It is well known that it is the prior art to be useful for the same purpose in order the prior graph of the same purpose in order than the same purpose in order the same purpose in order than the same purpose than the same purpose than the same purpose that the same purpose that the same purpose the same purpose that the same purpose the same purpose the same purpose the same purpose that the same purpose the	on. The composition contains medium chain that contains broccoli, citrus fruit bioflavolumn). According to applicant's specificated states that grape seed extract is a fown in the art at the time of the invention to prima facie obvious to combine two or moler to form a third composition which is use een used individually in the prior art.	n triglycerides, fruit polyphenols and conoids, bilberry extract, calcium D-tion, broccoli, grapes, and berries are source of polyphenols, to use the claimed ingredients in the ingredients each of which is taught by a full for the same purpose. The idea for the are also considered obvious to add to

method.

Claims 1-59 meet the criteria set out in PCT Article 33(4), and thus claims 1-59 have industrial applicability because the subject matter claimed can be made or used in industry.

Form PCT/ISA/237 (Box No. V) (April 2005)

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHO	RITY			
To: GREGORY P. EINHORN MORRISON & FOERSTER LLP 3811 VALLEY CENTRE DRIVE, SUITE 500 SAN DIEGO, CA 92130-2332		PCT WIFO D 2 MAY 2006 WIFO FC WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY		
•			(PCT Rule 43bis.1)	
		Date of mailing (day/month/year)	28 APR 2006	
Applicant's or agent's file reference 595142000140	•	FOR FURTHER	ACTION See paragraph 2 below	
International application No.	International filing date	(day/month/year) Priority date (day/month/year)		
PCT/US05/08839	17 March 2005 (17.03.2	(005)	17 March 2004 (17.03.2004)	
International Patent Classification (IPC) or	r both national classificat	tion and IPC		
IPC(7): A61K 36/87 and US Cl.: 424/766				
Applicant				
TAKEMOTO, ARNOLD C				
1. This opinion contains indications related	ting to the following iten	ns:	•	
Box No. I Basis of the	opinion			
Box No. II Priority				
Box No. III Non-establis	Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability			
Box No. IV Lack of unit	y of invention			
Box No. V Reasoned state applicability	atement under Rule 43 <i>bis</i> ; citations and explanation	s.1(a)(i) with regard to ons supporting such st	o novelty, inventive step or industrial atement	
Box No. VI Certain docu				
Box No. VII Certain defe	Box No. VII Certain defects in the international application			
Box No. VIII Certain obse	ervations on the internation	onal application		
2. FURTHER ACTION				
International Preliminary Examining	g Authority ("IPEA") e he IPEA and the chosen	xcept that this does IPEA has notified the	be considered to be a written opinion of the not apply where the applicant chooses an le International Bureau under Rule 66.1bis(b) ered.	
IPEA a written reply together, where of Form PCT/ISA/220 or before the e	appropriate, with amend appropriate appropriation of 22 months f	iments, before the ex	PEA, the applicant is invited to submit to the piration of 3 months from the date of mailing whichever expires later.	
For further options, see Form PCT/IS.	A/220.			
3. For further details, see notes to Form	PCT/ISA/220.			
Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450	Date of compl	etion of this opinion	Ayth Nized officer Suran B. Golf Livide	
Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201		·	Telephone No. (571) 272-1600	

Form PCT/ISA/237 (cover sheet) (April 2005)

I	nternational	application	n No.	

PCT/US05/08839

Box N	lo. I Basis of this opinion		
1. With	recard to the language this point on her have catallisted and the Louis of		
\boxtimes	th regard to the language, this opinion has been established on the basis of: the international application in the language in which it was filed		
	a translation of the international application into, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).		
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a.	type of material		
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	on paper		
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c.	time of filing/furnishing		
	contained in the international application as filed.		
	filed together with the international application in electronic form.		
	furnished subsequently to this Authority for the purposes of search.		
3.	In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.		
4. Additional comments:			
	·		
	· ·		

International application No. PCT/US05/08839

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement Novelty (N) Claims 2-57 YES Claims 1.58 and 59 NO Inventive step (IS) Claims 21.22 and 32 YES Claims 1-20,23-31 and 33-59 NO Industrial applicability (IA) Claims 1-59 YES Claims NONE

2. Citations and explanations:

Claims 1, 58, and 59 lack novelty under PCT Article 33(2) as being anticipated by US Pat. No. 6,432,453. US '453 teaches compositions that contain alpha-lipoic acid, tocopherols, derivatives of vitamin A, EDTA, and medium chain triglycerides (see column 4 and Examples).

Claims 1-20, 23-31, 33-59 lack an inventive step under PCT Article 33(3) as being obvious over US Pat. No. 6,503,506 and US Pat. Pub. No. 2002/009,8253.

US '506 teaches an antioxidant composition. The composition contains medium chain triglycerides, fruit polyphenols and lecithin (see top of column 9 and claims).

US '253 teaches an antioxidant composition that contains broccoli, citrus fruit bioflavonoids, bilberry extract, calcium D-glucarate, and grape seed extract (see page 5, first column). According to applicant's specification, broccoli, grapes, and berries are sources of plant indoles. In addition, applicant's specification states that grape seed extract is a source of polyphenols,

These references show that it was well known in the art at the time of the invention to use the claimed ingredients in antioxidant compositions. It is well known that it is prima facie obvious to combine two or more ingredients each of which is taught by the prior art to be useful for the same purpose in order to form a third composition which is useful for the same purpose. The idea for combining them flows logically from their having been used individually in the prior art.

The other ingredients claimed by applicant but not specifically taught by the reference are also considered obvious to add to the composition taught by the combination of the reference because these ingredients are generally known in the art to be beneficial for the health of an individual.

Claims 21, 22, and 32 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the claimed method.

Claims 1-59 meet the criteria set out in PCT Article 33(4), and thus claims 1-59 have industrial applicability because the subject matter claimed can be made or used in industry.